S.B. CIVIL MISC. APPEAL NO.356/2007
(Rataram & ors. Vs. Sango Tuwell N. & others)

Date of Order :: 26.07.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.N.S.Rajpurohit for the appellant.

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For quantification of compensation to be awarded to the sons and daughter of vehicular accident victim Smt. Sumti, about 50 years in age, the Tribunal has noticed the contention of the claimants that she was getting herself engaged in tailoring job and was earning Rs.100/- per day and was also earning about Rs.24,000/- per annum by working on agriculture. However, after considering the evidence available on record, the Tribunal has found that the claimants have failed to establish that the deceased was earning independently; but looking to her household contribution, has taken her notional income at Rs.2,100/- per month; and after deducting one-third wherefrom, has taken loss of contribution at Rs.1,400/- per month; and with application of multiplier of 13 has assessed claimants' loss at Rs.2,18,400/- (1400x12x13); and after allowing Rs.17,000/- towards general damages has assessed total loss in the sum of Rs.2,35,400/-; and while making the award in that sum in favour of the

claimants has allowed interest at the rate of 6% per annum from the date of filing of the claim application. The claimants seek enhancement in this appeal.

Learned counsel for the claimant-appellants contended that the deceased was earning minimum Rs.3,000/- per month and the Tribunal has been in error in taking her monthly income at Rs.2,100/- per month and such lower estimate has resulted in grave injustice. The submissions are bereft of substance.

The Tribunal has found after examining the evidence on record that the claimants have failed to establish any independent earning of their 50 years old mother; and the amount of Rs.2,100/- per month has been taken towards notional income and on that basis an amount Rs.1,400/- per month has been taken towards loss of contribution. In the overall circumstances of the case, even the estimate put by the Tribunal on the notional income of the victim appears to be rather excessive. The ultimate award as made by the Tribunal in the sum of R.2,35,400/-could only be said to be rather on the higher side and rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

The record received in this case contains evidence recorded in consolidated trial of other claim cases relating to

the same accident; and the appeals preferred by other claimants have been admitted today by separate orders. Therefore, the record of this case be retained and be attached with CMA No.357/2007.

(DINESH MAHESHWARI), J.

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